IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1777 OF 2005

1.Navnath Vithal Chintalwad & ors. Petitioners.

vs.

1.State of Maharashtra & anr. Respondents

Mr.R.K.Mendadkar with Ms.Helen Koli-Mandlik for the petitioner.

Mr.R.D.Rane,A.G.P. for the respondent no.1.

Ms.Deepa Chavan i/b. M/s.Little & Co. for the respondent no.2.

CORAM : R. M. LODHA &
R. S. MOHITE,JJ.

DATED : 22nd March 2005

P.C.

Heard.

2. Rule. Returnable forthwith. Mr.R.D.Rane, A.G.P. waives service for respondent no.1 and Ms.Deepa Chavan, advocate waives service for respondent no.2.

3. By consent, rule is heard finally at this stage.

4. This matter is concluded by our order passed on 17th March 2005 in Writ petition No.10678/2004-Pentu Vithalrao Maisanwad & ors v. State of Maharashtra & or. After considering the two judgments of the Supreme Court

in the cases of The State of Maharashtra v. Milind & ors., AIR 2001 S.C. 393 and R.Vishwanatha Pillai v. State of Kerala & ors., (2004) 2 SCC 105, we observed thus:

> "In the facts and circumstances of the case already noticed by us hereinabove, no purpose would be served in withholding the declaration of the result on the basis of the D.Ed. final year examination already taken by the petitioners or depriving them of the marksheets and the diploma if they have passed the examination. Needless to say that the petitioners shall not be entitled to any benefit of scheduled Tribe until verified by the concerned Scrutiny Committee."

5. In the present case, the petitioners have not been able to get their cast claim verified from the Scrutiny Committee. However, it is not in dispute that the petitioners have passed out D.Ed. course and marksheets thereof have been issued to the petitioners on 31st December 2003. In this view of the matter, there is no justification of depriving the petitioners from issuance of diploma certificate of the D.Ed. course which they have already passed.

6. We, accordingly, dispose of the rule by the following order:

ORDER

(i) The respondent no.2-Maharshtra State

Examination Council shall issue diploma certificates to the petitioners within four weeks from today as they have passed D.Ed. course.

(ii) The petitioners, however, shall not be entitled to any benefit of the Scheduled Tribe covered by the Scheduled Tribes order until their caste claim is duly verified by the Caste Scrutiny Committee.

No costs.

(R.M. LODHA,J.)

(R.S. MOHITE,J.)